IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SEVENTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 19202 of 2004

Between:

U.Ramulu, S/o Late Polaiah, 60 years,
Sangam Village, Vangara Mandal, Srikakulam District

..... PETITIONER

AND

1 The Revenue Divisional Officer, Palakonda, Srikakulam District
2 The Joint Collector, Srikakulam, Srikakulam District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus declaring the proceedings issued by the 2nd respondent in R.C.No.682/2004 S.1 dated 13-09-2004 as illegal, arbitrary, contrary to the A.P.S.P.D.S. control orders 2001 and in violation of principles of natural justice and set aside the same and further direct the respondents authorities to allow the petitioner to distribute the essential commodities to the card holders in Sangam Village, Vangara Mandalam, Srikakulam District., pending disposal of the Appeal before the Joint Collector, Srikakulam.

Counsel for the Petitioner : MR. RAMA RAO MAVIDI

Counsel for the Respondents : GP FOR CIVIL SUPPLIES

The Court made the following :

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.19202 OF 2004

ORAL ORDER :

The petitioner is the authorised dealer of the fair price shop of Sangam Village, Vangara Mandal, Srikakulam District.

This writ petition is filed aggrieved by the orders passed by the second respondent – Joint Collector, Srikakulam, dated 13-09-2004 rejecting the petition for stay filed by the petitioner pending appeal against the orders passed by the first respondent – Revenue Divisional Officer, Palakonda, Srikakulam District, dated 09-07-2004 suspending the authorization of the petitioner until further orders.

As can be seen from the material on record, the first respondent, on the basis of the enquiry report submitted by the Deputy Tahsildar (CS), Palakonda, Srikakulam district, dated 03-07-2004 stating that the petitioner has committed the irregularities specified thereunder in distribution of essential commodities to the cardholders, suspended the authorization of the petitioner until further orders. Aggrieved by the same, the petitioner preferred an Appeal before the second respondent. Having entertained the appeal, the second respondent by order dated 13-09-2004 rejected the application for stay observing that the charges are grave in nature, which is under challenge in this writ petition.

I have heard the learned Counsel for the petitioner and the learned Government Pleader appearing for the respondents and perused the material on record.

It is to be noted that the first respondent earlier passed an order dated 5-8-2004 rejecting the application for stay which was set aside by this Court by order dated 17-08-2004 in W.P.No.14457 of 2004 holding that the said order which was devoid of any reasons and was passed without affording an opportunity to the appellant is not sustainable. Accordingly, the second respondent was directed to consider the petition for stay afresh and to pass appropriate orders in accordance with law. In pursuance thereof, the impugned order dated 13-09-2004 has been passed holding that the grounds mentioned by the petitioner are not convincing for granting the stay till the disposal of the Appeal.

The learned Counsel for the petitioner vehemently contended that the impugned order is not only contrary to the observations made by this Court in W.P.No. 14457 of 2004, but also erroneous and unsustainable since the order of suspension dated 03-07-2004 passed by the first respondent was ex facie arbitrary and illegal. The learned Counsel while relying upon Clause 20(2) of The A.P. State Public Distribution System Control Order, 2001 (for short, 'Control Order, 2001'), further contended that pending appeal the second respondent ought to have granted stay of operation of the order of suspension.

No doubt that sub-clause (2) of Clause 20 of the Control Order, 2001 empowers the appellate authority to grant stay till the disposal of the statutory appeal filed under clause 20(1) of the Control Order, 2001, however, it is not as a matter of course or as an invariable rule. It is for the appellate authority to take a decision whether in a given case the order under challenge in the appeal requires to be stayed until the appeal is disposed of. In the case on hand, the second respondent having regard to the nature of allegations made against the petitioner by a speaking order, refused to grant stay of the operation of the order of suspension. Such a discretionary order passed by the appellate authority, which is only an interim order till the disposal of the appeal does not warrant any interference of this Court in

exercise of the jurisdiction under Article 226 of the Constitution of India.

Though the learned Counsel for the petitioner has also raised various other grounds contending that the order of suspension dated 03-07-2004 passed by the first respondent is arbitrary and illegal, I am not inclined to express any opinion as to the validity of the said order since the same is the subject matter of the Statutory Appeal pending before the second respondent. Instead, I deem it appropriate to direct expeditious disposal of the Appeal.

Accordingly, without expressing any opinion on merits, the Writ Petition is disposed of with a direction to the second respondent to dispose of the appeal pending on his file as expeditiously as possible preferably within a period of two weeks from the date of receipt of this order. No costs.

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17th November, 2004.

Gbs

To

1 The Revenue Divisional Officer, Palakonda, Srikakulam District
2 The Joint Collector, Srikakulam, Srikakulam District

3.2CCs to G.P. for Civil Supplies, High Court of AP Bldgs, Hyderabad (OUT).

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